IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 25369 of 2005(T)

CMA.91/2005 of DISTRICT COURT, THALASSERY

PETITIONER:

1. T.K.SATHI DEVI, D/O.KANNAN,
   AGED 67 YEARS, RESIDING AT "MAYUKA", SPINNING MILL ROAD, P.O.CHOVVA, KANNUR DISTRICT.

2. SHEELA M.T., D/O.BALAN,
   AGED 46 YEARS, TEACHER, RESIDING AT "MAYUKA", SPINNNING MILL ROAD, P.O.CHOVVA, KANNUR DISTRICT.

3. M.T.VINOD KUMAR, S/O.BALAN, AGED 44 YEAR BUSINESS, RESIDING AT "MAYUKA", SPINNING MILLS ROAD, P.O CHOVVA, KANNUR DISTRICT.

4. M.T.UMESH, S/O.BALAN, AGED 42 YEARS,
   BUSINESS, RESIDING AT "MAYUKA",
   SPINNING MILL ROAD, P.O.CHOVVA,
   KANNUR DISTRICT.

5. M.T.ANITHA, D/O.BALAN, AGED 40 YEARS,
   NO OCCUPATION, RESIDING AT "MAYUKA",
   SPINNING MILL ROAD, P.O.CHOVVA, KANNUR DISTRICT.

6. M.T.ARUN, S/O.BALAN, AGED 38 YEARS,
   BUSINESS, RESIDING AT "MAYUKA", SPINNING MILL ROAD, P.O.CHOVVA, KANNUR DISTRICT.

7. RESHMI KRISHNAN,
   D/O.BALAN, AGED 26 YEARS, RESIDING AT "MAYUKA",
   SPINNING MILL ROAD, P.O.CHOVVA, KANNUR DISTRICT.

BY ADV. SRI.V.RAMKUMAR NAMBIAR

RESPONDENTS:

1. ELITANPATTERI KUNHIRAMAN, S/O. PARU,
   AGED 74 YEARS, RESIDING AT PATTERI HOUSE,
   BAKKALAM, KANOOL POST, KALLYASSERI, KANNUR.

2. O.K.MALINI, W/O.KUNHIKANNAN,
   AGED 64 YEARS, "SATHYA NIVAS", THAZHE CHOVVA,
   KANNUR.

3. K.K.SAGEESH, S/O.KUNHIKANNAN,
AGED 34 YEARS, "SATHYA NIVAS",
THAZHECHOVVA, KANNUR.

4. K.K.SATHYAN, S/O.KUNHIKANNAN,
AGED 49 YEARS, SATHYA NIVAS,
THAZHACHOVVA, KANNUR.

5. C.P.SURENDRAN,
S/O.M.KUNHIRAMAN NAMBIAR, AGED 45 YEARS,
PAPPINISSERY AMSOM, AROLI DESOM, P.O. AROLI.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 TRUE COPY OF THE DOCUMENT DTD.26.12.1987.

EXT.P2 A TRUE COPY OF THE NEWS PAPER REPORT IN SUDINAM DAILY DTD.17.12.2004.

EXT.P3 TRUE COPY OF THE PLAINT IN O.S.218/2005.

EXT.P4 TRUE COPY OF THE ORDER IN I.A.1193/2005 IN O.S.218/2005 OF ADDL.MUNSIFF COURT, KANNUR DTD.17.5.2005.

EXT.P5 TRUE COPY OF THE ORDER IN CMA NO.91/2005 DTD.15.7.2005 OF THE PRINCIPAL DIST.JUDGE, THALASSERY.

TRUE COPY

P.A.TO JUDGE

css/

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 25369 of 2005

Dated this the 10th day of July, 2007

JUDGMENT

The plaintiffs, in a suit for injunction, impugn in this writ petition under Article 227 Ext.P5 judgment of the learned District Judge reversing Ext.P4 order of temporary injunction which had WW been granted in their favour.

2. I have heard the submissions of Sri.V.Ramkumar Nambiar, the learned counsel for the petitioners and Sri.V.R.K. Kaimal, the learned counsel for the respondents, who were successfull in Ext.P5 CMA. Even though Sri.Ramkumar Nambiar would flay Ext.P5 on the various grounds raised in the writ petition, I am unable to agree with him when he submits that Ext.P5 is vitiated to the extent of justifying interference by this court under its visitorial jurisdiction under Article 227 of the Constitution.

3. I notice that this court has directed both sides to maintain status quo as obtaining on 25.8.2005. The said order is continuing till date. Having considered the rival submissions

made at the bar, I am of the view that the writ petition can be disposed of issuing the following directions:

i). The Additional Munsiff, Kannur will try and dispose of O.S.218/2005 uninfluenced in any manner by the observations and findings in her own Ext.P4 order and also Ext.P5 judgment of the lower appellate court. Those findings and observations will be treated by the learned Munsiff as provisional and made only for the purpose of deciding the interlocutory proceedings. The suit will be decided by the learned Munsiff on the basis of evidence which comes on record at trial. The learned Munsiff will ensure that suit is disposed of at the earliest and at any rate within three months of receiving a copy of this judgment.

ii). Considering the above directions, there will be a further direction to both the parties to continue to maintain status quo, as already ordered by this court on 25.8.2005, till such time as the suit is disposed of.

PIUS C. KURIAKOSE,
JUDGE.

dpk